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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT

(Shasta)

THE PEOPLE,

Plaintiff and Respondent,

v.

DEBRA ELAINE PARKER,

Defendant and Appellant.

C086439

(Super. Ct. No. 15F5843)

A jury convicted Debra Elaine Parker of first degree residential burglary. The trial court placed defendant on probation with various terms and conditions, including that she not knowingly contact the victims and that she stay 500 yards from their residence.

Defendant now challenges the no-contact and stay-away probation condition. But because she failed to object to the probation condition in the trial court, her contention is forfeited on appeal. We will affirm the judgment.

BACKGROUND

At the time of the burglary, defendant had been living next door to the victims on a country road. In 2015, Deputy Mike Matheson responded to reports that defendant appeared to be intoxicated in public. The deputy found defendant sitting on her front porch; she was agitated, smelled of alcohol, and had slurred speech. After performing poorly on field sobriety tests, defendant was arrested.

Later that day, the victims called law enforcement to report that their house had been burglarized while they were out. The front door to their home had been left open, the inside ransacked, and items were left on the porch. Antique silver teapots were in their driveway. Deputy Matheson found a trail of belongings between the victims' house and defendant's house. He also found defendant's distinctive belt and buckle on a pile of the victims' property near defendant's front door.

The jury convicted defendant of first degree residential burglary. (Pen. Code, § 459.) The trial court suspended imposition of sentence and placed defendant on probation for three years. After a discussion with counsel about the reasons defendant might need to visit her former neighborhood (i.e., to visit an 85-year-old friend who no longer drove) and representations regarding the distances between the properties, the trial court ordered defendant, as a condition of probation, not to "knowingly attempt nor have any contact in any manner with, nor be in the presence of [the victims], and that [she] not come within 500 yards of their residence." Defendant's trial counsel did not object to the probation condition; in fact, he submitted on the issue, saying "we have more important issues."

DISCUSSION

Defendant contends the trial court lacked statutory authority to issue the no-contact and stay-away probation condition. Acknowledging that she did not object to the probation condition in the trial court, she argues the condition constitutes an unauthorized sentence that she may challenge for the first time on appeal.

Ordinarily, a criminal defendant who does not challenge an assertedly erroneous ruling in the trial court forfeits the right to raise it on appeal. (*In re Sheena K.* (2007) 40 Cal.4th 875, 880.) The purpose of the forfeiture rule is to encourage parties to alert a trial court to an asserted error so the trial court has an opportunity to correct it. (*Id.* at p. 881.)

Although forfeiture does not apply in all circumstances (*People v. Stapleton* (2017) 9 Cal.App.5th 989, 994), such as where a probation condition violates a fundamental constitutional right and is based on undisputed facts (*In re Sheena K.*, *supra*, 40 Cal.4th at pp. 888-889), here defendant does not challenge the probation condition on constitutional grounds. Rather, she argues there was an insufficient showing of need for the condition and no statutory authority for it. Her insufficient showing argument is premised on the facts of the case. (See *In re Sheena K.*, *supra*, 40 Cal.4th at pp. 885 [a trial court is in a better position to review and modify a probation condition based on facts].) And she only asserts state law grounds to challenge the condition. Because she did not object on those grounds below, her contention is forfeited. (*People v. Moran* (2016) 1 Cal.5th 398, 403, fn. 5, 404, fn. 7.)

DISPOSITION

The judgment is affirmed.

/S/
MAURO, J.

We concur:

/S/
BLEASE, Acting P. J.

/S/
ROBIE, J.